IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

I.T.R. No.245 of 1995
Date of decision: 08.11.2006

The Commissioner of Income Tax (C), Ludhiana.

---Applicant

Vs.

M/s Avon Cycles (P) Ltd., Ludhiana.

-----Respondent

CORAM:- HON'BLE MR JUSTICE ADARSH KUMAR GOEL
HON'BLE MR JUSTICE RAJESH BINDAL

Present: Mr. S.K. Garg Narwana, Advocate
for the revenue.

Mr. Akshay Bhan, Advocate
for the assessee.

ORDER:

Following question of law has been referred for opinion of this Court by the Income Tax Appellate Tribunal, Chandigarh Bench, Chandigarh, arising out of its order dated 27.06.1994 in I.T.A. No.932/Chandi/1989 in respect of assessment year 1986-87:-

> "Whether, on the facts and in the circumstances of the case, the ITAT was right in law in upholding the order of the first appellate authority deleting the disallowance made u/s 43B of the Income-tax Act by holding the two provisos to section 43B inserted by the Finance Act, 1987 w.e.f. 1.4.1988 and the Finance Act, 1988 w.e.f. 1.4.1988 have retrospective application?"

We find that the issue is covered against the revenue and in favour of the assessee by the judgment of Hon'ble Supreme Court in ***Allied Motors (P) Limited v. Commissioner of Income Tax*** (1997) 224 ITR 677.

Following the above judgment of the Hon'ble Supreme Court, we have decided the issue against the revenue and in favour of the assessee vide our order dated 5.9.2006 in ITR No.94 of 1996, ***The Commissioner of Income tax (C), Ludhiana v. M/s Avery Cycle Inds. Pvt. Limited, Ludhiana.***.

Accordingly, the question is answered against the revenue and in favour of the assessee.

(ADARSH KUMAR GOEL)
JUDGE

November 08, 2006 **(RAJESH BINDAL)**
ashwani **JUDGE**